

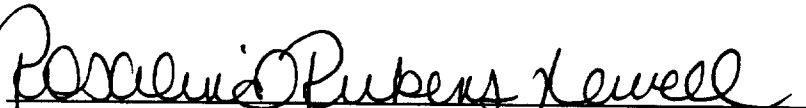
Entered - 09/14/01 - sb  
CL01L0563 - DIANNE C. MITCHELL

CLAIM OF: SUE AND CHRIS KUREK,  
through their attorney,  
Arnold E. Gardner  
Suite 425  
3445 Peachtree Road, NE  
Atlanta, Georgia 30326

01-*R*-1763

For damages alleged to have been sustained as a result of personal  
injuries due to a fall on March 12, 2001 at the Atlanta Airport.

THIS ADVERSED REPORT IS APPROVED

BY:   
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0563

Date: October 16, 2001

Claimant /Victim SUE AND CHRIS KUREK  
BY: (Atty) Arnold E. Gardner  
Address: Suite 425, 3445 Peachtree Road, NE, Atlanta, Georgia 30326  
Subrogation: Claim for Property damage \$ Bodily Injury \$ Not Stated  
Date of Notice: 09/11/01 Method: Written, proper X Improper         
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 03/12/01 Place: Atlanta Airport  
Department Aviation Division:         
Employee involved        Disciplinary Action:       

NATURE OF CLAIM: The claimant, Sue Kurek, alleges that she was injured when she fell on a "chalk block" at the Delta baggage claim area. The investigation determined that the area where Ms. Kurek fell is a Delta exclusive area and maintenance of this area is the responsibility of Delta. The claim has been forwarded to Delta for handling and the claimants, through their attorney, have been notified of this action.

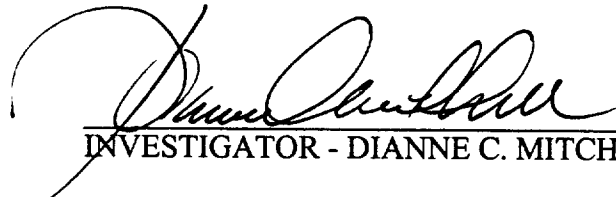
### INVESTIGATION:

Statements: City employee        Claimant        Others        Written        Oral         
Pictures        Diagrams        Reports: Police        Dept Report        Other         
Traffic citations issued: City Driver        Claimant Driver         
Citation disposition: City Driver        Claimant Driver       


### BASIS OF RECOMMENDATION:

Function: Governmental        Ministerial         
Improper Notice        More than Six Months        Other        Damages reasonable         
City not involved X Offer rejected        Compromise settlement         
Repair/replacement by Ins. Co.        Repair/replacement by City Forces         
Claimant Negligent        City Negligent        Joint        Claim Abandoned       

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

### RECOMMENDATION:

Pay \$        Adverse X Account charged: 1A01        2J01        2H01         
Claims Manager:  Concur/date 10-16-01  
Committee Action:        Council Action

**ARNOLD E. GARDNER**

ATTORNEY AT LAW

Suite 425

3445 Peachtree Road, N.E.

Atlanta, Georgia 30326

*M. Mitchell*  
*09/11/01*  
*De*

Telephone: (404) 261-0016

Facsimile: (404) 261-0024

E-Mail: agardner@mmkplaw.com

September 11, 2001

**VIA HAND DELIVERY and  
FACSIMILE (404) 658-6273**

ENTERED - 9-14-01 - SB  
01L0563 - DIANNE MITCHELL

Atlanta City Counsel  
C/o Rhonda Johnson,  
Municipal Clerk  
55 Trinity Ave., SW  
Ste. 2700  
Atlanta, GA 30335

**VIA HAND DELIVERY and  
FACSIMILE (404) 658-7082**

✓ Dianne Mitchell  
Claims Manager  
City of Atlanta Law Department  
Ste. 4100  
68 Mitchell St., SW  
Atlanta, GA 30335

Re: Sue and Chris Kurek

Dear Madams:

Please be advised that I have been retained to represent Sue and Chris Kurek with regard to Sue Kurek's March 12, 2001 fall inside of the Delta baggage claim room at Hartsfield Atlanta International Airport.

On March 12, 2001, Mrs. Kurek had returned on a Delta flight from Miami to Atlanta when her bag was missing, so she was sent to the Delta baggage claim area at Hartsfield Atlanta International Airport. After completing her claim paperwork, Mrs. Kurek turned away from the Delta agent to leave. Unbeknownst to Mrs. Kurek, while she was at the Delta desk the crowd control ribbon was removed, thus allowing her access to the door to exit. Unfortunately, as Mrs. Kurek attempted to exit the Delta baggage room she tripped over a plain chalk wheel block and fell, resulting in four fractures to her right shoulder. Mrs. Kurek was unaware of the chalk block as she had entered from a different direction and did not see the chalk block prior to tripping over it as the black chalk block was not readily noticeable on the dark carpeting with the dark lighting. Mrs. Kurek is still undergoing medical treatment for the injuries to her right shoulder.

While investigation into this matter is still ongoing, it is contended, upon information and belief, that this serious injury to Mrs. Kurek was caused in whole or in part by the negligence and/or intentional acts of officers, agents, employees, servants, and/or independent contractors of the City of Atlanta. In particular, it is contended that the City of Atlanta is liable for this serious injury of Mrs. Kurek and the related loss of consortium claim of her husband Mr. Kurek in the following particulars:

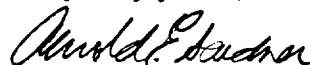
- (a) Negligently maintaining the premises in, at and around the Delta baggage claim room at Hartsfield Atlanta International Airport;
- (b) Negligently placing the subject plane wheel chalk block in the area of the exit door at the Delta baggage claim room at Hartsfield Atlanta International Airport on March 12, 2001;
- (c) The City of Atlanta is or may be liable for the negligent retention and/or hiring of officers, employees, agents, servants and/or independent contractors who were responsible for the maintenance and safety of persons in, at or in the vicinity of the Delta baggage claim area at Hartsfield Atlanta International Airport on March 12, 2001;
- (d) The City of Atlanta is or may be liable under the theory of nuisance on the basis that it knew of the insufficient maintenance and safety procedures for persons in or near the Delta baggage claim area at Hartsfield Atlanta International Airport prior to March 12, 2001 but nonetheless failed to correct, repair or otherwise remedy such nuisance.

As stated above, an investigation into this matter is continuing and the above particulars are not intended by any means to include all potential allegations of negligent and/or intentional acts on the part of the City of Atlanta or its officers, agents, employees, servants, and/or independent contractors.

Please accept this letter as a presentment of the Ante-Litem Notice to the City of Atlanta pursuant to O.C.G.A. § 36-33-5.

Best regards.

Very truly yours,



Arnold E. Gardner

AEG/ksr

Cc: Sue and Chris Kurek

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